

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

KELLIE WILLIAMS BOX, )  
Plaintiff, )  
v. ) CIVIL ACTION NO. 5:12-CV-66 (MTT)  
FORT VALLEY STATE UNIVERSITY, )  
*et al.*, )  
Defendants. )  
\_\_\_\_\_  
)

**ORDER**

This matter is before the Court on the Motion to Dismiss of Defendant Fort Valley State University (“FVSU”). (Doc. 6). For the reasons set forth below, the Motion is granted.

On February 24, 2012, pro se Plaintiff Kellie Williams Box filed her complaint against Defendants FVSU and Georgia Board of Regents, alleging she was retaliated against for complaining of sexual harassment in the workplace. Defendant FVSU contends it should be dismissed as a Defendant because it is not a legal entity capable of being sued. The Court agrees.

A party's capacity to be sued is determined “by the law of the state where the court is located.” Fed. R. Civ. P. 17(b)(3). Pursuant to Georgia law, the Board of Regents of the University System of Georgia is the legal entity responsible for the alleged acts and/or omissions of FVSU. *McCafferty v. Med. Coll. of Ga.*, 249 Ga. 62, 64, 287 S.E.2d 171, 173 (1982) (overruled on other grounds by *Self v. City of Atlanta*, 259 Ga. 78, 377 S.E.2d 674 (1989)); *Barnes v. Zacarri*, 757 F. Supp. 2d 1313 (M.D. Ga.

2010). Thus, Defendant FVSU is not a proper Defendant. Accordingly, the Motion to Dismiss is **granted** and Defendant FVSU is dismissed as a Defendant in this action. The Plaintiff's claims against Defendant Georgia Board of Regents shall go forward.

**SO ORDERED**, this 17th day of August, 2012.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT